

Message Text

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R 301709Z OCT 75

FM AMEMBASSY ROME

TO SECSTATE WASHDC 3914

UNCLAS ROME 15771

E.O. 11652: N/A

TAGS: EFIN, IT

SUBJECT: US-ITALY INCOME TAX TREATY - APPLICATION OF LOCAL TAX
TO ROYALTIES

PASS TREASURY FOR NATHAN GORDON

1. AN OFFICIAL OF PEAT, MARWICK, MITCHELL IN MILAN HAS INFORMED EMBOFF THAT MILAN DISTRICT TAX OFFICE HAS BEGUN TO ISSUE TAX BILLS CLAIMING LOCAL INCOME TAX (ILOR) ON ROYALTIES PAID BY ITALIAN LICENSEES TO U.S. RESIDENTS, INCLUDING U.S. COMPANIES. WHILE IT WAS JOINTLY AGREED BY USG AND GOI IN DECEMBER 1974 THAT THERE WOULD BE NO WITHHOLDING AT THE SOURCE AGAINST ILOR ON ROYALTIES, THE QUESTION OF TREATY APPLICABILITY TO ILOR WAS LEFT FOR RESOLUTION DURING FORTHCOMING RENEGOTIATION OF TREATY. NONETHELESS, ITALIAN AUTHORITIES HAVE MADE IT CLEAR FROM BEGINNING THAT THEY THOUGHT TREATY SHOULD NOT, REPEAT NOT, APPLY TO ILOR.

2. EMBASSY HAS ALSO LEARNED THAT SOME TAX ADVISORY FIRMS HAVE INTERPRETED ITALIAN TAX LAW, ITSELF, AS NOT REQUIRING PAYMENT OF ILOR ON ROYALTIES PAID TO COMPANIES, AS OPPOSED TO PAYMENTS TO INDIVIDUALS. (WERE THIS INTERPRETATION EVENTUALLY ADOPTED BY ITALIAN TAX AUTHORITIES, QUESTION OF TREATY APPLICABILITY TO ILOR WOULD OF COURSE BE MOOTED AS REGARDS ROYALTIES.) IN FACT, SOME U.S. FIRMS WHICH RECEIVE ROYALTY INCOME FROM ITALIAN SOURCES HAVE ACCEPTED ADVICE FROM TAX FIRMS AND NOT FILED A RETURN. IT NOW APPEARS THAT MILAN DISTRICT TAX OFFICE, AT LEAST, IS TAKING CONTRARY POSITION AS TO ILOR TAX LIABILITY.

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3. IT UNFORTUNATE THAT MILAN DISTRICT TAX OFFICE HAS TAKEN INITIATIVE IN IMPLEMENTING THEIR OWN INTEPRETATION OF QUESTION BY ISSUING TAX BILLS UNDER ILOR TAX PROVISIONS, SINCE QUESTION STILL SUBJECT TO NEGOTIATION BETWEEN TWO GOVERNMENTS. WHILE THIS DEVELOPMENT IS NOT SURPRISING, IT ESTABLISHES PRECEDENT WHICH WILL MAKE EVENTUAL ACCEPTANCE OF APPLICABILITY OF TAX TREATY TO ILOR MORE DIFFICULT THAN EVER.VOLPE

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